

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDMUND W. BROWN

Application 09/769,590

MAILED

MAR 28 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on March 22, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the Image File Wrapper (IFW) indicates that appellant filed an Appeal Brief on September 2, 2005. The examiner acknowledged the Appeal Brief in an Examiner's Answer mailed on November 17, 2005. Section 1207.01 of the Manual of

Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005)

states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held. [Emphasis added.]

The Examiner's Answer does not comply with the above requirement.

In addition, it is noted that the language of claim 22 in the Appendix to the Appeal Brief filed September 2, 2005 differs from its last amended version (see the Amendment filed April 19, 2004). 37 CFR § 41.37(c)(1)(viii) requires that the Appendix to the Appeal Brief contain a correct copy of the claims involved in the appeal.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to take corrective action regarding the appeal conference;
- 2) to notify appellant to submit a corrected Appendix to replace the existing defective Appendix, or for the examiner

to issue a revised Examiner's Answer to officially correct the Appendix; and

3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



DALE M. SHAW
Program and Resource Administrator
(571) 272-9797

DMS/psb

Boyle Fredrickson Newholm Stein & Gratz, S.C.
250 E. Wisconsin Avenue
Suite 1030
Milwaukee, WI 53202